IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION No.1063 OF 2006

Shri Damodar J. Bindal .. ..Petitioner

Versus

State of Maharashtra and Ors. .. ..Respondents

Ms. Bobby Malhotra for petitioner

Mr.A.H.Palekar, AGP for respondents

CORAM : S. C. DHARMADHIKARI, J

DATE : 23RD FEBRUARY, 2006

P.C.:

1. Heard Ms. Malhotra appearing for the petitioner and Mr.Palekar appearing for the respondents.

2. The office of the Commissioner of Police, Brihanmumbai addressed a communication on 12.1.2006 to the Petitioner pointing out that in the Petitioner's establishment a Pub, Discotheque and activity of playing music as also permitting customers to dance and other entertainment programmes are being conducted and the

attention of the petitioner was invited to the relevant rules and the provisions of the Bombay Police Act, 1951 and the Petitioner is informed that unless and until permission and licence under the above rules is obtained from the authorities stipulated thereunder such activities cannot be carried on and if they are being carried on and continuing, appropriate action in accordance with law will be taken on the basis that the same are illegal.

3. The attention of the petitioner was invited to Division Bench decision of this Court in Writ Petition No.24 of 1998 delivered on 4th October, 2004 and another judgment reported in 2004 Cr.L.J. 3174. This communication is being challenged in the present petition under Articles 226 and 227 of the Constitution of India.

4. Ms. Malhotra for the petitioner, upon taking instructions from the petitioner, makes a statement that the petitioner is not required to obtain any permission or licence because in the petitioner’s establishment neither there is a Pub, Discotheque nor dance on pipe music. According to her, in the light of this fact, it

is not necessary to obtain a licence and the communication therefore is not applicable.

5. In the light of petitioner’s statement made before this court that his establishment neither having a Pub nor Discotheque and a dance on pipe music being permitted by him, it is not necessary to scrutinise the action of the respondents in addressing the communication. The communication proceeds on the basis that if such activities are being carried out without proper licence and permission then action would be taken in accordance with law.

6. The apprehension of Ms. Malhotra that the word "Pub", according to the respondents, would mean any activity with music being played not necessary with dance, is concerned, in my view, it is for the petitioner to satisfy the authorities with regard to the concept of Pub and it is for them to come to a conclusion as to the nature of the activities and whether they can be termed as a Pub or the same are permissible in a food and drink joint or restaurant. It is not necessary to go into this aspect at this stage. In the light of the statements made by Ms. Malhotra the

petition stands disposed of.

(S.C.Dharmadhikari, J.)